THE · CONFLICT BETWEEN · LIBERTY AND · EQUALITY

Arthur · Twining Hadley

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Raymond F. West Memorial Lectures

The Conflict Between Liberty and Equality

BY

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BOSTON AND NEW YORK
HOUGHTON MIFFLIN COMPANY
The Riverside Press Cambridge
1925

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BROTHERS COLLEGE

The Riverside Press
CAMBRIDGE · MASSACHUSETTS
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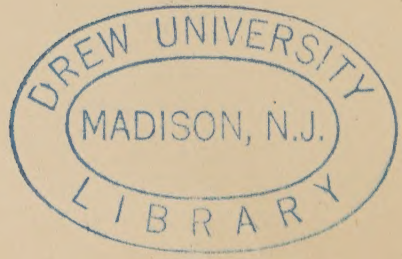

PREFATORY NOTE

THIS volume represents the eighth of the series of Raymond F. West Memorial Lectures at Stanford University. These lectures were delivered on April 22, 23, and 24, 1924, by Dr. Arthur Twining Hadley, formerly president of Yale University. The conditions of the lectureship are set forth in the following letter from its founders:

In memory of our beloved son, Raymond Frederic West, a student in Leland Stanford Junior University, who was drowned in Eel River, in California, on January 18, 1906, before the completion of his college course, we wish to present to the trustees and authorities of the Leland Stanford Junior University, at Palo Alto, California, the honored Alma Mater of our son, the sum of ten thousand dollars ($10,000), to be held as a fund in perpetual trust, for the establishment

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of a lectureship on a plan similar to the Dudleian Lectures and the Ingersoll Lectures at Harvard University.

By this plan, in each collegiate year, or on each alternate year, at the discretion of the Board of Trustees, from one to three lectures shall be given on some phase of this subject: "Immortality, Human Conduct, and Human Destiny."

Such lectures shall not form part of the usual college or university course, nor shall they be delivered by any professor or instructor in active service in the institution. Such lecturer may be a clergyman or a layman, a member of any ecclesiastical organization, or of none, but he should be a man of the highest personal character and of superior intellectual endowment. He shall be chosen by the Faculty and the Board of Trustees of said University in such manner as the said Board of Trustees may determine, but the appointment in any case shall be made at least six months before the delivery of said lecture.

The above sum is to be safely invested, and

the interest thereof is to be divided, at the discretion of the Board of Trustees, into two parts, the one an honorarium to the lecturer, the other for the publication of the said lectures, or the gratuitous distribution of a number of copies of the same if published by the author.

The manuscript of the course of lectures shall become the property of the University, and shall be published by the University unless some other form of publication is more acceptable.

The course of lectures shall be known as the "Raymond F. West Memorial Lectures on Immortality, Human Conduct, and Human Destiny."

F. W. West
Mary B. West

Seattle, Washington
January 18, 1910

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The Conflict between Liberty and Equality

I

INDUSTRIAL PROBLEMS AND POLITICAL IDEALS

The second paragraph of the Declaration of Independence begins with this sentence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness."

Few of us at the present day would be ready to subscribe to quite so broad a statement as this. We know that the right to liberty is not inalienable, but

may be forfeited by misconduct. We know that the supposed equality of all mankind is something that has never been actually realized in human history. In fact, the signers of the Declaration of Independence themselves can hardly have meant what they said to be taken literally. Most of them were aristocrats; many of them were slave-holders; some of them defended human slavery on principle. They were simply stating the theory of democratic government as it was understood in their time, and as it had been expounded by the great prophet of modern democracy, Rousseau. In this theory great stress was laid on the contrast between the natural status of man as God had created him and the legal status which other men had imposed

upon him. Like the old Greek philosophers, Rousseau and his followers looked back to a Golden Age — a state of nature from which man had degenerated, but toward which he might return by accepting their political philosophy.

Whether such a state of nature had ever actually existed was a question about which neither Rousseau nor Jefferson nor Franklin greatly troubled themselves. The emphasis on historic fact as distinct from historic fiction is something quite modern. Indeed, Rousseau himself somewhere says that the importance of his theory of society is not affected by the question of whether his historical assumptions are true or not. To him and to those who thought with him liberty and equality

were ideals to be pursued; and any explanation which would lead men to pursue them and which was plausible enough to make them sound reasonable was good enough for all practical purposes.

In the latter part of the eighteenth century, these ideals appealed strongly to a world which was sick of the cramping influence of authority upon men's powers, and of the injustice produced by the inequality of laws and privileges. Out of this idealism came the Declaration of Independence and the American Revolution; out of the same idealism, fifteen years later, came the French Revolution with all its tremendous mixture of good and evil. In spite of all the evil — in spite of the excesses of the Reign of Terror, and the bloody wars of

the Napoleonic period, and the reaction toward the old order which followed the end of these wars — progressive men on the whole kept their faith in Rousseau's ideals if not in his predictions. They believed that progress was to be sought by getting more liberty and more equality as fast as was humanly possible.

Of any probable conflict between the two purposes they took no heed. That the liberty of one man or group of men might permanently interfere with the pursuit of happiness on the part of other groups was an idea which hardly occurred to them. The theory of political economy which prevailed during the first half of the nineteenth century was that of Adam Smith, who held that the intelligent self-interest of producers

would contribute to the prosperity of consumers if they were only given liberty of trade. The theory of ethics which then prevailed was based on the views of Rousseau regarding the innate goodness of man in his natural state when unencumbered by law or theology. The thing which led people to accept the utilitarianism of Bentham and Mill was the current opinion that the happiness of the whole community — other men as well as one's self — would appeal to each intelligent member of the community as an end to be pursued, whether the law compelled him to do so or not; in fact, that he would be more likely to pursue it if he were left free than if you tried to make him do so by statutes and policemen.

The partial failure of their ideals in

Europe was accepted by believers in democracy as inevitable. They looked with confidence to the working out of the system in the United States, and were content to bide their time till the example of the New World should be followed by the Old. The field in America one hundred years ago was a favorable one for carrying out the experiment of combining liberty and equality as the bases of a social system. We had a sparsely settled country, where each man could exercise his liberty without interfering much with his neighbors, and where his success in the pursuit of happiness operated to help others in that pursuit rather than to hinder them. Our citizens as a body were remarkably intelligent; they had the knowledge and the patriotism which

were needed to prevent liberty from degenerating into license. Our form of government was well adapted to secure the maximum of liberty with the minimum of friction; it left different localities free to settle their separate economic problems in their own way, but placed them, as nearly as possible, on an equality in their influence on the more general questions of national policy. Under these conditions America for many years grew at once more democratic, more prosperous, and more powerful. What in 1776 had been a group of aristocratically organized colonies with democratic theories had become one hundred years later a federated nation of democratic commonwealths. The one great difference of principle which had threatened to tear

that nation asunder — the slavery question — had been settled. Fifty years ago it seemed as if America had solved her most difficult political problems, and that the liberties of her people were secure against every contingency except that of foreign conquest.

And yet, at the very moment when the old political questions were settled, a new set of problems was developing, partly political and partly industrial, which were more complex than the old ones, and put a greater strain on the theories of Rousseau and on the practical working of the American Constitution. The factory and the railroad, the labor union and the trust were developing economic antagonisms between different localities and different classes

in the community. These things came upon us at a time when the country had so far filled up that good land no longer existed in the old abundance; at a time when the bulk of the immigrants were no longer picked men, as they had been fifty years earlier. Under these new conditions the liberty of one man no longer seemed to help his neighbor to the pursuit of happiness as much as it once did. The equalizing effects of competition, by which profits were limited and the gain from new methods of production was distributed through the whole community, worked far less smoothly and universally than had once been expected. The strong man was no longer the pioneer who blazed the path to success for others; he tended to become, or at least to seem like, the

monopolist who occupied it to the exclusion of others. Under conditions like these, trade threatened to degenerate from a means of mutual advantage for both buyers and sellers into a struggle for superiority between organized buyers on the one hand and organized sellers on the other.

This brought a large amount of new work upon our legislative assemblies. Business difficulties which we had formerly expected to let alone, in the full confidence that they would right themselves, were now made the subject of special legislation, both local and national. We had to give up the old theory that the best government was that which governed least. Just as we were congratulating ourselves on having gotten rid of the slavery question,

we found ourselves confronted with the labor question, the immigration question, the railroad question, the trust question. We may fairly say, in the words of scripture, that we had cast out one devil and brought in seven others worse than the first.

On each of these subjects we have a mass of legislation such as our fathers never dreamed of. Some of it is wise; most of it is foolish or ineffective. Some of it represents an honest attempt to deal with difficult problems in their entirety; more of it represents a compromise between conflicting arguments and claims urged upon Congress or upon the State legislatures by organized minority interests. The result satisfies no one. We have abandoned the principle of letting people alone as

far as we can; we have not established any other principle which shall guide us in controlling their business activities. We have not adapted either the machinery of our government or the habits of our political thinking and action to the new conditions. At a time when the very foundations on which democracy grew up are being threatened, and when one man's liberty does interfere with other men's equality to a very extraordinary degree, we content ourselves with rather unsuccessful tinkering at the superstructure. Whenever our government — and the same thing is true of popular governments in Europe to-day — is brought face to face with a new industrial development, we are apt to look upon it as a battle between organized interests on both

sides, where the parties are to be appeased by the best sort of makeshift which we can arrange. We pass a tariff bill which is a compromise between men in different occupations; we settle a railroad problem in such a way as to meet the combating claims of East and West, or of railroad capital and railroad labor; we try to adjust wage disputes in a fashion which gives something to the workman and something to the employer; we arrange our modes of raising and of spending public money without much reference to any consistent economic principle, but in such a way as to give each group of organized voters something of what they ask. The unorganized public pays the bill.

The matter is not to be settled in this way. What looks on the surface like a

mere selfish struggle for individual advancement has in it something deeper and better. Behind the conflicts of personal and local interests there are underlying divergencies of view and sentiment among different sections of our people which determine their general attitude toward each particular trouble or problem, and which are very far from being selfish in their origin. The strike involves something broader than the question whether a particular group of workmen shall get higher wages. It involves to a greater or less degree the question what considerations should determine the rate of wages in general. Conflicts between labor and capital arise largely from an honest difference of opinion on this matter. A demand for reduced railroad charges involves

something broader than the question whether the claim of a given district for reasonable rates is more urgent than the claim of a given body of stockholders for reasonable profits. It involves the more general questions as to what determines whether rates or profits are reasonable, and who should have the responsibility of applying these principles. The conflict between East and West, between owners and users of a railroad, rests on an issue of principle, a divergence of views as to what is fair rather than an attempt on either side to secure more than is fair.

Looking at the matter in its largest aspect, it is fortunate for the Republic that this is the case. It speaks far better for the character of our people to have them differing in opinion than to

have them fighting for plunder. But, curiously enough, this same fact often makes it harder instead of easier for the Government to deal with the individual economic problems that come up. It is a much simpler matter to settle a quarrel than to reconcile a difference of opinion. It is a good deal easier to stop a fight than to allay a prejudice. To stop a fight you can appeal to the combatants' public spirit and sense of decency and order; and if that fails you can call on the police and the courts. But to allay a prejudice you must get a man to see facts which he did not see before and does not want to see now; and to reconcile a difference of opinion you have to get two different sets of men to lay aside their prejudices and look at the facts from the other party's

standpoint as well as from their own.

For this sort of educational process the old-fashioned agencies of government are not very well fitted. Our courts are inadequate because our judges have not, and in the majority of instances cannot be expected to have, the technical knowledge which will enable them to predict the actual consequences of any given decision on rates or wages. Our legislatures fail because their members generally share the prejudices of the district or the class whom they represent; so that their speeches are more apt to accentuate than to allay the misunderstandings which stand in the way of a lasting settlement. And, as a general rule, the commissions which have been created to deal with these problems — labor commissions,

coal commissions, railroad commissions — have proved a disappointment. They have undoubtedly had some measure of success in settling individual difficulties with which courts and legislation were powerless to deal. They have arranged a series of compromises which were probably as fair as the circumstances admitted. But they have not developed any coherent set of principles by whose application the public could get the railroad service we needed at the lowest possible cost, or make a fair adjustment between the consumers' demand for cheap coal and the mine laborer's demand for a secure annual income at a living wage. They have served as boards of arbitration rather than as means of educating public opinion.

It is clearly unfair to place the responsibility for this way of doing things upon the commissioners themselves. They are almost always hard-working and public-spirited men who have done their duty as well as they could. Nor is it fair to put the whole blame upon the Congress of the United States or the legislatures of the several States. The trouble lies farther back. The man who proposes a commission to deal with an economic difficulty and the men who frame the laws governing the powers of that commission are as a rule carrying out the wishes of the people behind them. In clinging to the belief that great industrial problems like the coal supply or the transportation service or the adjustment of taxes can be settled by a series of unrelated compromises

negotiated by bi-partisan commissions, our politicians have the tacit encouragement and in many instances the active approval of their constituents. We can expect no real reform until the American people as a body realizes that the differences of opinion underlying these questions are too deep to be settled by any process of surface healing, too poignant to be forgotten in any show of superficial agreement. Different parts of our population have different ideas of what constitutes justice and of what is meant by liberty. Each side is sure of its fundamental rightness. There is but one political party that recognizes how deep our troubles lie, and that is the Socialist party. I believe that its solution of the difficulty is a wrong one; but there are times when a

wrong solution proposed by men who try to go to the root of things makes more appeal to the people than the speeches of our old acquaintances in "Pilgrim's Progress," Mr. Facing-both-Ways and Mr. Talkative. If we think that our ideas of the methods of conducting a commonwealth are better than those of the Socialists, it is our fault if we fail to go into the matter as thoroughly and as fundamentally as do our opponents.

To be able to combat the positive theories either of Marx or of MacDonald with any degree of permanent success, we must have positive theories of our own regarding the relations between the liberty of the individual and the interests of the community as a whole, which shall have facts enough

behind them to enable us to make our appeal to the people with more definiteness and more confidence than Marx or MacDonald have made theirs. It is only by thus going to the bottom of things that we can get a coherent public opinion behind us which will enable American democracy to deal with its industrial problems effectively.

No theory, however well grounded in history, will enable us to settle all our economic problems in the same way that the theory of gravitation does (or did until recently) settle all our mathematical problems. There will always be cases when the claims of social justice and of individual freedom seem incompatible; and in such cases there will always be some men whose temperament inclines them toward the one and

some toward the other. But I think that the study of economic history will help us to reduce the number of cases of this sort to a minimum; that we can define the issues between the socialist and the individualist, between the advocate of equality and the advocate of liberty, in such a way as to make them a subject of intellectual debate, wherein one party seeks to convince the other, rather than a basis for appeals to emotion, which leave the two disputants farther away from one another at the end than at the beginning.

Every one who wants to see our nation well governed is crying out for some new issue on which parties shall be organized and by which American politics may be rescued from the chaos into which they have fallen. The one

issue big enough for the purpose — big enough to transcend the appeal of business interest or class feeling or local prejudice — is the issue between liberty and equality; the relative importance from the standpoint of the nation of allowing our individual citizens to develop their own powers in their own way — the claim of liberty — or of having all citizens given opportunities as nearly equal as possible for the pursuit of happiness — the claim of social justice. The man who has studied the history of liberty and equality and has thought out the lessons of that history is likely to have the same advantage over the mere opportunist in dealing with the politics of the next twenty years that Lincoln had in his day over those who thought that the slavery

question could be settled by expedients like the Kansas-Nebraska Bill or doctrines like that of squatter sovereignty.

I know of no study which is more in line with the purposes for which this lectureship was established. If anything can aid us in understanding the "relations between human conduct and human destiny," it should be the study of the history of liberty. It will help us to see the interaction between the needs, the ideals, and the institutions of organized political society in successive phases of its development. If carried out to the fullest extent, we shall see that it gives history a new meaning, and morality a new sanction.

In tracing the history of liberty we are not in a position to go quite so far back as Rousseau or Jefferson claimed

to go, and state what happened at the creation of mankind. Of this we have no trustworthy record. But if we go back as far as we can and examine the institutions of the most uncivilized tribes, we shall find that they had no liberty at all. The noble savage wandering at will through the forest is a dream of the imagination. He is bound by conventions and usages which tie him down to a routine of conduct closer than any civilized man is tied down to-day. Not liberty, but *standardization*, is the characteristic of primitive society. If we look at the beginnings of civilization, as typified in tribes which have remained one half or three quarters savage, we shall find that human institutions in their early stages are distinctly hostile to personal liberty. The

whole effort of primitive society is directed toward forced conformity to fixed standards. Priests, chiefs, and people unite to suppress any deviation from established racial custom. The freest member of a group of African Bushmen or American Indians is bound by fetters of tribal usage more rigid than the mind of civilized man can readily conceive.

There are two political traits or habits which are strongly marked in every savage people — the habit of imitating those who are in a position to set a fashion, and the habit of persecuting those who do not conform to the fashions thus set. Traces of both these things are still manifest in the life of modern civilized society. The rule of fashion did not wholly cease with the

signing of the Declaration of Independence; the persecution of those who fail to obey its mandates is not wholly unknown even in twentieth-century communities. But the sway of fashion today is pretty much confined to the externals of conduct; and the penalties for defying its rules are far less severe than they were a few thousand years ago. We are more rigid in insisting that people should dress as we dress or talk as we talk than that they should vote as we vote; and, when they fail to dress as we do, we content ourselves with refusing to invite them to our parties, instead of putting them in prison or burning them at the stake. "Strong as the propensity to imitation is among civilized men," says Bagehot in his "Physics and Politics," "we must conceive it as an

impulse of which their minds have been partially denuded. Like the farseeing sight, the infallible hearing, the magical scent of the savage, it is a half-lost power; it was strongest in ancient times, it is strongest in uncivilized regions."

And it was strong for the same reason. The life of the tribe and of its members depended upon it. In the fighting of savage tribes, rigidity of discipline was as important as acuteness of sense-perception, and far harder to attain. Apparently the one thing which in the early stages of society was adequate to secure this strict discipline was a religious (or, if you prefer the term, a superstitious) fear of the gods. If the authority of the chief was to be effective, it had to be backed by the authority of the priest or medicine-

man; and, in the last resort, subject to that authority. Even in much later stages of society, the consuls dared not fight unless the *auspex* declared the omens favorable.

But if the maintenance of discipline depended on the fear of supernatural powers who were ready to help the tribe which conformed to customs prescribed by the priests, and to punish it, collectively and without remorse, for any violation of these customs, it was impossible to tolerate liberty. Persecution followed as a matter of course. To quote Bagehot again: "There is no limited liability in the political notions of that time; the early tribe or nation is a religious partnership in which a rash member by a sudden impiety may bring utter ruin. If the state is conceived

thus, toleration becomes wicked; a permitted deviation from the transmitted ordinances becomes simple folly — it is allowing one individual for a moment's pleasure or a stupid whim to bring trouble and irretrievable calamity upon all."

But, though the conduct of the primitive community was thus standardized, its individual members were far from enjoying equality. The same military necessity which required the development of a common *morale* and the automatic observance of certain common usages, also required the recognition of chieftains and of priests whose word should be law in their several spheres. Discipline means officers as well as rules. Any attempt of the private in these ancient communities to put him-

self on the level of the officer was as severely discouraged as it would be in a modern army. Any attempt of the man in the ranks to back his individual judgment against that of his superiors meets the same fate. "Armies," says Macaulay, "have won victories under bad generals, but no army ever won a victory under a debating society." As long as fighting is the almost constant business of a tribe, we find no liberty and very little equality. This, then, is the starting-point from which we must begin — not a Golden Age where all men were created equal and had "inalienable rights to life, liberty, and the pursuit of happiness," but an Iron Age where the community had even less use for equality on the one hand or for liberty in the pursuit of happiness on the

other than the American Army has to-day. Liberty is denied *in toto*, equality restricted to the utmost.

The world's political history may be said to have begun with a movement in the direction of equality; a movement which antedated by many centuries the development of the idea of liberty in its modern sense.

Just as the discipline of the modern army tends to get somewhat relaxed in times of peace, so the discipline of the ancient state became somewhat less severe, and the lines between different ranks somewhat less strictly drawn, wherever war ceased to be the constant and immediate concern of all mankind. The sergeants, and ultimately even the privates, began to have something to say for themselves. The old military

aristocracy gradually gave place to a certain sort of democracy. I say "a certain *sort* of democracy" because it was a very long time before we had anything like democracy in the modern sense, where every adult male of reasonable intelligence has a share in the benefits and responsibilities of government. Down to the Christian era, and in fact long after it, the men who did most of the actual work of industry were generally excluded from political life. Democracy in early days simply meant tolerably equal rights for all who were trained to bear arms.

This kind of military democracy gradually supplanted the old military aristocracy in many parts of the ancient world. With the limited time that is at our command, I shall not try to

enter into the history of this movement in detail. Most of us are more or less familiar with the histories of Greece and of Rome, which appear to have been typical of what happened in other ancient states which were active in commerce or in thinking. For a great variety of reasons such states admitted more and more people to the benefit of their laws, and somewhat later and more reluctantly to a share in the making of those laws. A man who was thus allowed the full benefit of the laws of the community was said to have civil liberty; a man who had a fair share in making those laws was said to have political liberty. A state was said to be a pure democracy when political liberty was co-extensive with civil liberty; when each citizen had the same rights

and the same powers as every other citizen.

I want to call attention to a point which is not generally understood, and which, if we can grasp it, will save us from a great many misunderstandings. What these ancient democracies called liberty was not liberty at all, in the sense in which we use that word at present. When they said civil liberty, they meant civil equality. When they said political liberty, they meant political equality. With few and transient exceptions, of which Athens is by far the most important, there was no liberty in Greece in the sense in which we now understand the word, and not a great deal of liberty in Rome. When we speak of a free country we mean a country whose laws and customs en-

courage individual citizens to use their own judgment in matters which do not directly menace public safety or public decency. If a man has a policeman at his heels all day to prevent him from using his judgment, we do not regard him as free, even if he happens to be one of a majority who elected the men that appointed the policeman and framed the ordinances under which he acts.

As compared with any modern political society, even Soviet Russia, the ancient commonwealths were places of rigid standardization — places where the liberty of the individual citizens was suppressed and their conformity to fixed rules enforced to the utmost possible degree. Take the case of Sparta, which to the majority of writers

probably seemed to be the ideal Greek commonwealth. The citizen of Sparta was free in the sense in which Blackstone defines freedom — he was "allowed to do anything which the laws permitted." But the laws did not permit him to follow his inclinations or exercise his own judgment in any of the ordinary affairs of life. He was not allowed to bring up his own children. The magistrates had first to decide whether the children looked as if they were worth bringing up; if not, they were left in the woods to be eaten up by wild beasts. If they were spared, the father was not permitted to train them himself or to decide how they should be trained. All this was done by public agencies on a fixed plan. The Spartan citizen was not allowed to eat what he

pleased or to eat it where he pleased; he had to take the fare which the laws prescribed, and eat it at his club, no matter how much he might want to dine at home for a change. Page after page of Plutarch's Life of Lycurgus is filled with the strange details of a constitution by which the everyday life of the Spartans was regulated, and with an undertone of approval of that constitution which to the modern reader seems stranger still.

But, in giving that approval, Plutarch simply voiced the general opinion of the ancient world, that liberty as we moderns understand it — freedom to conduct our lives according to our own individual pleasure and judgment — was a bad thing and needed to be suppressed. In suppressing it thoroughly

and making all her citizens conform to a fixed standard, Sparta simply carried out an idea which underlay Greek policy in general. Athens had more liberty than Sparta, and that liberty enabled her to do many things which Sparta could not do — to fight the Persians successfully and to produce great works in art and letters. But even at Athens the measure of personal liberty allowed the citizens was small as compared with that which is accorded to the peoples of America or Western Europe to-day. And, in judging the merit of that limited measure of personal freedom at Athens, ancient observers were more ready to blame it for causing her downfall than to praise it as the source of her greatness.

The modern conception of liberty is

something of which the Greeks and Romans had little idea, and of whose possibilities for the good of the commonwealth they had no conception. It is more than mere freedom from restraint. It means the encouragement of individual initiative and experiment. It means freedom of discussion and fair try-out of personal opinion. It means toleration in the largest and best sense of the word — a readiness to give the man who dislikes our own fashion of thinking and doing a fair chance to see whether his may possibly be better. In the noble words of John Morley, it would leave all roads open to the hero, because no man living knows by which road he will come. This is the modern ideal of liberty as distinct from the ancient ideal of standardization; this is

the kind of freedom which makes for progress in science and in art, in thought and in morals.

The man who regards a political unit as self-governing because it is free from outside domination, when the individual members of that community are subject to state supervision and police control, emphasizes the less important side of self-government. The community may be self-governing, but the individuals of which it is composed are not. The servitude of the individual Spartan to the Laws of Lycurgus was all the more hopeless because he was content with it and proud of it. He remained at heart a serf, who deluded himself with the idea that he was a free man. During the centuries in which his city claimed the primacy of Greece,

no Spartan had a share in the great achievements in art and letters which make Greek history worth reading. Even in the art of war, to which the whole time and thought of Sparta were devoted, her methods were so unprogressive that a single defeat of her army on a fair field shattered her power beyond hope of recovery. Her citizens had neither the breadth of interest nor the resourcefulness in grave emergencies that go with real liberty, in the modern sense of the word.

For breadth of interest, in a man or in a nation, is dependent upon the habit of exercising one's own judgment and initiative; and resourcefulness in an emergency, in a man or in a nation, is developed by training which leads to self-reliance rather than by that which

leads to implicit obedience. The effect of rigid discipline remains useful so long, and only so long, as a people has to face the same conditions, military and industrial, which the old rules were framed to meet. Change these conditions, and it is the self-reliant man or race which can rise superior to circumstances. This is why, in the long process of natural selection which constitutes human history, the old political ideals of rigid discipline and enforced equality under strict public regulation have gradually given place to modern ideals of liberty. Not simply liberty from control *outside* the community; not simply liberty from control by *privileged classes* within the community; but liberty from control by the community itself.

This new ideal of freedom, under which each man claims the privilege of living his own life in his own way just as far as is consistent with the safety of those about him, has tended to give political institutions that flexibility which is needed to enable a people to adapt itself to new conditions without the devastating influence of conquest from without or revolution from within. This is why, in spite of the great difficulties and dangers attendant upon the exercise of such freedom, the attempts to widen its sphere have been on the whole attended with increased power and prosperity for the peoples that welcomed them; and why the attempts to restrict its application, in the interests of the older ideal of equality, have so often done harm rather than good. Equality

represents the ideal of conservative races; freedom, that of constructive ones.

II

THE USES AND DANGERS OF PROPERTY RIGHT

We have seen in the previous lecture how the practice of standardization and the zeal for enforced equality that goes with it grew out of the military necessities of half-civilized tribes. These things were needed to secure discipline. In the present lecture I shall try to show how, as people became more civilized, the encouragement of individual liberty grew out of their industrial necessities. It was needed to insure efficiency and progress.

The sequence of cause and effect is not so direct and simple in this case as in the other. The development of the

modern system of liberty can be best understood if we treat it in two parts or stages, considering first how the need for industrial progress called forth the institution of private property, and second, how private property in turn fostered those ideas and habits which are the basis of the modern idea of liberty and have made it advantageous to the communities that have adopted it.

Property, or ownership, is a right which the community accords its members to the permanent control of objects outside of themselves. In this definition the word "objects" is used in a very broad sense, to include immaterial things like copyrights and patents, and also human beings who are held as slaves. What distinguishes property from mere possession is the

permanence of control which it carries with it. Society will support and enforce the property-owner's rights when he is not himself exercising them. It will not let one man make use of another man's property which may be lying idle, except by the owner's permission. What we call the system of private property is the group of usages and laws which result from the recognition by the public of such permanent rights.

How did the industrial necessities of our ancestors give rise to such a system?

In looking into the early history of civilization, the first thing that strikes us is that capital needed for productive use has habitually been made the subject of private ownership. Even in the hunting stage, the bow was recognized

as the property of the individual hunter or warrior. The food which came as the result of his hunting might belong to the tribe in common; the means of getting that food did not. In the pastoral stage, property rights were extended to cover the livestock which constituted the capital of the herdsmen — cattle which furnished the main support of the tribe and slaves who did most of its work. In the early agricultural stage, the means necessary for farming or mining were made the subject of ownership which was strictly protected by the authorities. In primitive communities of this kind, whether in ancient times or in modern, the stealing of a horse is apt to be treated as a more heinous crime than the killing of a man. Even when the land itself has

been regarded as public property, the instruments of production have generally been held in private hands.

There are certain apparent exceptions to this which have come up in recent times, where the state has taken control of instrumentalities like the telegraph or the railroad. But the primary motive for taking such control has usually been a political rather than an industrial one; a desire to increase the power of the government as compared with that of individual citizens rather than a wish to improve economy of construction or efficiency of handling.

Now, why was capital thus made the subject of private ownership? Why was each man given permanent rights to the use of his bow or of his horse? Partly, no doubt, because the people

who had the ability to make bows or to tame wild animals usually had the ability to maintain their rights over them by force if anybody attempted to take them away; but chiefly because this was the only way in which society could secure that *conservation* which has been a necessary basis for all industrial progress. If the results of past labor were destroyed or wasted, instead of being used to make production more efficient, the whole community suffered. In order to have these results preserved in the form of capital, you had to give people a selfish motive to take care of them. No man would look after his bows and arrows carefully if some one else could use them as soon as he laid them down. No man would spend the time which was needed for

taming animals if somebody else could ride off with them as soon as his back was turned. By enlisting the self-interest of individuals through the grant of property right, you got more capital and better capital than you could possibly get in any other way.

The contention of Marx and his followers that we can have publicly owned capital just as well as we can have privately owned capital is disproved by the experience of ancient and modern society. The public slaves of ancient Greece were worked to death in a few years. The public highways of modern America are no better treated than the public slaves of ancient Greece. We prefer to spend much money in replacing them, rather than to spend a little care in their daily maintenance. The

treatment of the public stores which were in the hands of our Government at the end of the War furnishes an even more signal example of the kind of waste inherent in public ownership. No amount of rigor on the part of the Government, nor of advance in civilization among the people, will prevent this wanton waste. The Russian peasant destroyed the cattle and tools needed for his own support as soon as their control was taken out of private hands. In fact, the experience of Russia in this matter was so conclusive that devoted adherents of Marx, including Lenine himself, abandoned in practice, after an experience of only two or three years, the very contention to which their lives had been devoted. The more fully we examine the industrial history of differ-

ent races, the more we shall be convinced that permanent ownership of capital by individuals is an economic necessity as a basis for all the higher forms of civilization.

We now come to the second part of our subject: How has the system of property right given rise to the modern conception of liberty? And, in order to answer that question intelligently, we need to ask ourselves what the modern conception of liberty really is. We defined it provisionally at the end of the last lecture as a privilege afforded to each member of the community of living his own life in his own way; but this is altogether too vague. We require something more precise.

If we regard liberty as the right to do as you please — which is perhaps the

most popular definition — we are talking of something which has no real existence in politics. No member of an organized society has the right to do as he pleases. Robinson Crusoe may have had it while he was alone. When other people came to the island, their presence limited his pleasure. The more people there are in a given place, and the more complicated the civilization under which they live, the harder it is for anybody to do as he pleases. The chieftain who looks as though he had the most liberty is often so tied down by the demands of his position that he has the least.

"To me the straiter prison,
To me the heavier chain,
To me, Diego Valdez,
High Admiral of Spain."

If, on the other hand, a man tries to meet this objection by saying, as Mill does, "I mean the right to do as you please so long as you do not interfere with the same right on the part of other people," he at once runs into another equally serious difficulty. You always do interfere. The active exercise of liberty by one man operates as a restriction to the liberty of others. The roadway is nominally free to all; but, if I have started to walk in the smoothest or shadiest part of the road, the other man must be content with the rougher or hotter places until I get by. Every one of our outward acts is, or at least may readily be, an interference with other men's liberty.

Is there, then, no middle ground? Must we content ourselves with Black-

stone's definition, quoted in the last lecture, that "liberty is the right to do anything which the laws permit"; which, as we have seen, may not mean any real liberty at all, but only civil equality? I think that there is such middle ground and that we can occupy it by defining liberty as follows:

Liberty is the power to use intelligence as a determining factor in our conduct.

The distinctive feature in the modern free state is that it allows each man to meet the needs of the community in his own way rather than in a way laid out by somebody else. The community contents itself with prescribing results. It not only gives the citizen an option in choosing the methods by which those results shall be reached; it actually en-

courages him to exercise that option in order that the public may have the benefit of experiments by individual members as to the best way in which people can live together in modern society. Liberty in this modern sense means an absence of *preventive* restraint. In place of the ancient system of standardization which prescribed how every man should live and where every man should work and what every man should believe, we now try to determine what sort of *results* may be requisite for the public safety in the way of cleanliness and efficiency and morality, and then let the individual citizens get at them in their own several ways. But this is not all. Liberty, at its best, means even more than this. Over and above the mere absence of

preventive restraint, it offers substantial prizes for the exercise of intelligence in the way of public approval and recognition. It enlists enlightened self-interest in the service of society.

Now, I want to show, if I can, how the system of property right has promoted the acceptance and the usefulness of this modern idea of liberty.

In the first place, the existence of property enables the owner to pay civil damages if he hurts other people by the exercise of his freedom. If a man has no property, he is not in a position to compensate anybody else for the harm which he may have done him by his experiments. It is, therefore, exceedingly difficult for the community to allow him to try experiments which may possibly do harm to somebody

else. But if he has property, the situation is altered. If things go wrong, he can make good the damage to his neighbors. If they go right, he can get the benefit of his experiments and his neighbors can follow his example. The power to use a pecuniary penalty, not as a punishment to the individual for doing wrong, but as a compensation to somebody else for the harm done by guessing wrong, means a long step toward the recognition of liberty of judgment.

In the second place, private property enables the community to get its work done by offering the workman a reward for what he does, instead of inflicting a punishment upon him for what he fails to do. This makes it possible to have the work done by freemen instead of

slaves, with a gain both in productiveness and in *morale*.

The labor of slaves is at best proverbially somewhat inefficient. Having no incentive to do more than they are compelled to do, they try to do as little as possible. Even in ancient times, when people took slavery as a matter of course, they recognized this defect in the system; and both Greeks and Romans encouraged slaves to work, by the prospect of purchasing their freedom. To this economic reason for the abolition of slavery a religious reason was added by the development of Christianity. The doctrine of human brotherhood, weak as it proved in many instances, helped to disabuse people of the notion that some men were born to be serfs and others to be free. Slowly,

but surely, the hope of reward took the place of the fear of punishment as a motive for labor. Slowly, but surely, men were given the chance for self-control and self-government in their industrial life.

By giving men the inducement of a reward for their work, the public gained several advantages. First, the economic productiveness of the community was substantially increased. For one slacker who did less as a freeman than he would have done as a slave, there were several ambitious men who did more as freemen than they would have done as slaves. From this the community reaped two advantages; first, the direct industrial good which resulted from having a surplus of products which might be used in trade, or

saved to assist future production; second, the development of habits of forethought which made the members of the commonwealth more fit for liberty in this line and in every other.

Besides this increase in quantity of product, and in forethought about its use, there was an improved adaptation of men to their several lines of business. From allowing a man to *direct* his own work, it was but a step to allowing him to *choose* his own work; to select the occupation for which he found himself best fitted, instead of being confined to the one that his father had practiced; to move to the locality which afforded the greatest opportunity for the exercise of his calling, instead of being compelled to remain at home, where chances were fewer and natural conditions less

promising. Here again the community reaped the same double gain; the economic efficiency which resulted from specialization, and the moral advantage which comes from the habit of making intelligent choice of the things a man can do best. Of course there were instances of loss as well as of gain. Some people tried to be artists who would have done better as farmhands. Good blacksmiths were spoiled to become very indifferent dentists. But in general the effect of freedom of choice, as it gradually developed from the thirteenth century onward, was to put men in the right places rather than in the wrong places.

And finally, the system of reward proved a stimulus to inventions which have made the modern industrial

world wholly different from anything that ancient history has to show. It is singular that so able a people as the Greeks put so little thought into what we now call practical matters. They reasoned a good deal about art and a good deal about philosophy, but they did not apply their reasoning to the betterment of the conditions of living. They accomplished wonders in the way of beauty; but when it came to matters of utility the most noticeable thing about the Greeks and even about the Romans was their unprogressiveness. Industrial progress is the result of invention; industrial inventiveness has been secured by encouraging the inventor to make experiments, through a development of property right which offers him a reward if his idea proves a good one.

These things will suffice to show why the institution of private property made it possible and desirable to give men what we now call liberty — the right to use their intellect in determining their conduct of the greater part of the actual business of life; and why the extension of such liberty was generally attended by a corresponding growth in the capacity for its exercise.

Up to this point the substitution of property for slavery, of reward for compulsion, appears as an almost unmixed economic and moral benefit. It now remains to look at the other side of the picture; to see something of the dangers with which this progress and this freedom were attended; to examine sequences of events where good and evil in industrial progress are so mixed that

it is hard to divide the one from the other. These complex conditions arose from the use of that form of capital known as money.

Every race or tribe, in an early stage of its industrial development, singles out some particular kind of property which is generally acceptable throughout the community to serve as a universal measure or standard of value. This is what constitutes money. What the substance is does not very much matter so long as it is acceptable to every one. The wampum of the Indians, the cattle of the nomadic tribes, or the silver and gold which are used by more advanced races, can serve the purpose equally well. If a man can be sure that the possession of a certain amount of cattle or a certain amount of

silver will enable him to purchase almost anything else that he wants with it, he will be glad to receive it as compensation in a damage suit, or as a reward for his labor; knowing that he in turn can pay damages with it instead of going to prison, or buy the services of other men and the products of other men's labor with it instead of doing his work for himself.[1]

The use of money, therefore, promoted the division or specialization of

[1] It is not necessary that the money itself should change hands in these transactions. The use of money as a means of exchange, which is much overemphasized by the economists, is a purely incidental one. It is enough to exchange a piece of paper giving title to the gold or any other substance which furnishes the universal standard of value. In fact, the Latin word for money, *pecunia*, is derived from *pecus*, a herd of cattle, and carries us back to the days when the race which did more than any other to develop our commercial law used a kind of money which could not possibly serve as a general medium of exchange.

labor. Instead of a condition where each household attended to all its own wants, it helped men to reach a stage where they produced things for others as well as for themselves. In the beginnings of this development they usually produced for *orders* — to meet the specific needs of those about them. The blacksmith or the carpenter was also a farmer. Only when some of his neighbors wanted a horse shod or a house repaired did he take away his time from the farm to use it in lines where he and others could profit by his special skill. But, as population grew, production for the market took the place of production for orders. It was found more profitable both for the individual and for the community to have the blacksmith give his whole time to

forging horseshoes and chains and tools, instead of making a few such things as a kind of bye-job; and to have a market three or four times a year where he could offer the goods he had produced to all who might want to buy them, and where those who needed such goods might be reasonably sure of finding what they wanted.

The invention of markets and the substitution of this sort of speculative production for the old method of making goods to order had a very important effect on the character of business as a whole and on the kind of qualities which the successful business man required. If you were content to produce goods when they were ordered, your success depended almost exclusively on the efficiency and craftsmanship of your work;

if you produced them for market, it depended largely upon the question whether you judged accurately how much the market would take, or, in other words, how much the public wanted. If you produced too many goods or sent them to the wrong market, you could not possibly sell all you made at the price you expected. If you had trained yourself to a line of production in which too many others had already engaged, you found a permanent difficulty in making as good a living as a blacksmith or carpenter as you would if you had remained a farmer. The center of gravity of business questions had shifted. The craftsman no longer faced the simple problem of producing workmanlike goods, but the more complex problem of de-

ciding which goods would be needed and producing them just as fast as they would sell and no faster. The merchandising of the product had become quite as important a question as the economy of production itself. And, as a consequence, the control of production tended to pass out of the hands of craftsmen and into the hands of men who were primarily merchants — buyers of labor and sellers of its products.

The nature of the change can perhaps be better understood if we look at it from another angle. In the earliest stages of industrial development, labor employed capital to render its work more efficient. The blacksmith or carpenter or shoemaker got better and better tools, which he used to make his labor more productive. But in the

later stage which we are now describing, the word "employment" has come to have a new meaning. We habitually speak of capital as employing labor. By this phrase we mean that an owner of capital having ready money at his command pays wages to laborers and sells the product of their labor for what he can; that workmen with little or no capital depend upon capitalists for their maintenance, and for their opportunity to work effectively. Production is no longer controlled by independent farmers or independent guilds of workmen, who themselves own the tools and machinery which they use; but by landowners with capital, who employ a number of agricultural laborers, and by manufacturers with capital, who employ a still larger number of factory

hands. It is no longer the most skillful workman who can conduct his business most profitably; but the man who can best judge which object to produce, and is in effect a farseeing merchant rather than a skillful farmer or manufacturer.

This change was not accompanied by any loss in material wealth to the community, or in material wages to the laborer. On the contrary, the community got larger returns by having its business in the hands of men who knew how to trade with success and to invest with foresight; and though the laborer did not get anything like the whole of this increased return, he probably got the greater part of it. What he chiefly lost was a certain measure of his independence. The kind of liberty which

the possession of property had given him, the concentration of property in other hands threatened to take away from him. This loss of independence was progressive as time went on. Each industrial improvement during recent years has meant larger units of capital and longer terms of waiting for the returns. It has made it harder for the individual laborer to save the capital needed for giving him a substantial interest in the business in which he is skilled, or to risk the chance of loss from an investment which may prove commercially unprofitable. The change from the turnpike to the railroad, from sail to steam, from shop to factory, has given the public more goods and cheaper goods; it has given the workmen an increase of average wages; but

it has displaced the independent wagoner, or shipowner, or master craftsman, and has put the control of industry into the hands of men who are primarily merchants.

A word as to the ethical changes which went on in connection with these economic ones.

The institution of private property and the right to employ it as capital continued to place a premium on the same moral qualities that it had done. It stimulated thrift; it rewarded intelligence; it offered the progressive man his chance to rise. The conduct of business still gave men practice in the exercise of liberty; it still afforded the community an object lesson of the ways in which the intelligence of the individual, if he were left free to use his judgment

in doing the best he could for himself, was likely to lead to large service to the public. But there were two respects in which the ethical situation was not wholly satisfactory from the standpoint of the lover of liberty. In the first place, industrial units were so large that the number of men who could hope to attain to positions of independent authority was relatively small. Outside of America, so large a proportion of the actual workers in the early part of the nineteenth century were devoid of ambition that the one and only motive for saving was thrift. Private property gave them a training in prudence, but not in the larger virtues of citizenship. And in the second place, success in business was no longer primarily or chiefly the result of skilled work, but of

skilled buying and selling. Business was no longer an education in doing as much as you could for others, but in getting as much as you could out of others. I do not mean that the skillful speculator in the products of labor failed to render a service to society. If he foresaw what was wanted, he did render a service and a very large one; and so long as the system of free competition prevailed, the charge for that service was usually small in proportion to its value to the community. But with human intelligence as it is the moral effect of making money by skillful selling is never quite so good as that of making it by skillful work. And if for any reason free competition did not prevail, the theory that the seller might take advantage of short supplies to

force the prices up to any figure he could get often had a demoralizing effect both on the market and on the ethics of those who frequented it.

The working out of these economic and ethical changes was accompanied and confirmed by corresponding changes in the law. Centralized control of capital was favored by the legal recognition of interest, and by the development of joint-stock companies. The recognition of the payment of interest as a fair and right thing made it possible for a man who had accumulated some money to borrow additional amounts, and thus employ more laborers than he otherwise could have done; and, if he proved successful in one venture, to repeat the same process on a constantly increasing scale. The small

capitalist found it hard to compete with the large one, and much safer to lend his money to his rich neighbor. This allowed him to get a sure return on what he had saved, but it made it impossible for him to become the employer of his own labor, as he might have done a century or two earlier. The invention of joint-stock companies had a similar effect in promoting the growth of large industry and submerging the personality of small investors. The man who had saved a little money could embark his capital as one of a number of stockholders in an enterprise where his liability was strictly limited to the par value of what he had put in, and where he could find a ready market for his shares if the enterprise proved successful. He became in a certain sense

a partner in its losses or its gains; but he did not become a partner in its management except by a most unwarrantable stretch of the meaning of that term.

These two instances will serve as illustrations of what took place all along the line. The development of invention had created a need for industrial improvements. To make these improvements required large amounts of capital whose investment involved a risk. To meet the needs of society the experiments had to be made by men controlling capital enough to wait a long time for a return, and to sustain the loss if that return proved less than was expected; above all, men with commercial foresight enough to know which experiments to try on a small scale and which to follow out on a large one.

Out of these conditions there has developed during the last four centuries a group or class of capitalists; a body of men, some of whom have inherited money, some of whom have saved it, and some of whom have made it by successful ventures of their own, who act as employers of the labor of the country; that is, they pay wages or salaries to the men actually engaged in the conduct of industry, sell the products of such men's labor or the services which that labor enabled them to render, and appropriate the difference in the form of interest or profit. As industry has become more complex, as transportation has developed, and as trade has increased in importance, the separation between the workman who sells his labor and the capitalist who buys it has

become wider, and the possible conflict of interests greater.

Two causes have hitherto retarded this separation and operated to check the dangers inherent in it.

In the first place, the commercial classes created by this system differed from the castes of India or the ranks of feudal nobility in being less rigidly separated. The laborer could become a capitalist if he saved money out of his wages. The more skillful he was, the more money he could save and the greater his chances of bridging over any gap which existed between laborers and employers. The mere possibility of doing this was of importance in preventing the formation of rigid class lines; and in the countries of Western Europe there has always been much

more than a mere possibility. If we look at the list of the men who are in control of modern industry, who have the initiative in directing it, and who take their share of the profits of success or the risks of failure, we shall find that a large number of them began as poor boys and worked up to their present position of control.

The second thing that has hindered the separation of modern industrial society into classes has been the persistence of competition. So long as capitalist employers continued to bid against one another for the services of the laborer, a real conflict of interests between the two classes was impossible. Competition tended to drive wages up to such a point that the laborers generally got a larger share of

the current product under the new industrial conditions than they did under the old ones.

A word as to what this sytem of competition really means. In the markets of the later Middle Ages, where craftsmen and farmers brought their products for sale at stated intervals, the prices appear to have been largely fixed by custom, and were made proportionate to the average amount of labor which had been expended, or was supposed to have been expended, on the product. But this method had great disadvantages. The customary price might be so high that people could not buy the goods at all; or it might be so low that everything would be sold in the first hour of the market, so that the buyers who wanted the things most could not

get them at any price at later hours. In the face of these difficulties, it seemed better to rely upon competition; to let the seller fix what price he pleased, but encourage the buyer to go at once to somebody else if he thought the price too high. Unless there was an actual scarcity, the self-interest of the sellers would make them part with their goods at fair prices in order not to find themselves with unsold stock to be disposed of at ruinous sacrifice in the closing hours. If there was a scarcity, the profit which could be made attracted a larger number of sellers into the market at the next quarter, and thus cured the evil. The English courts saw that where different sellers were thus acting independently, even if there were only a few of them, the interests of the

buyers were in the long run better protected by encouraging such methods than by trying to fix prices, which were sometimes up so high as to discourage sales and sometimes down so low as to discourage production.

Now, when the conduct of industry came to mean the buying of labor and the marketing of the products of labor, the courts continued to rely on competition; and this worked reasonably well for a long time. They encouraged the capitalist to go into the labor market and buy his labor at whatever price he could, believing that on the whole higher wages would be had in this way than in any other; they allowed him to sell the product to the consumer at what price he could, believing that competition of other capitalists would

prevent him from realizing an exorbitant profit or appropriating the lion's share of any gain due to increased efficiency of labor.

During the larger part of the nineteenth century it was believed by the great body of economists, and by the majority of courts and legislators also, that any attempt to obtain higher wages or lower prices than those which the competitive system provided would defeat its own purpose by checking the accumulation of capital, the demand for labor, and the production of consumable goods. In other words, they conceived of our modern industrial system as a large public market, in which the price that cleared the market was *ipso facto* a fair price; one which gave society the maximum benefit and

distributed it with as near an approach to justice as was practicable.

Each of these causes which have kept modern industrial society from segregating into conflicting groups of laborers and capitalists is, unfortunately, less potent to-day than it was fifty years ago. In the first place, it is less easy to get across the chasm and become an employer of one's own labor than it was before. There are still a good many men who can do it, but they are not so numerous in proportion to the total as they once were, nor are the chances before them so obvious and so varied. This is noticeably the case in the United States. The public lands are filled up. The frontier, where first-rate chances could be had for nothing, has practically ceased to exist. The con-

solidations of industry have become so large that a man with independent ideas finds it very hard to try out experiments on his own account with any prospect of success. Under these conditions "class consciousness" has grown up among the laborers — a public sentiment separate from the general public opinion of the community, a group of industrial ambitions distinctly different from the old ambition to save money and become one's self a capitalist.

And, in the second place, the public believes far less implicitly in the competitive system than it once did. It realizes that the conception of the industrial world as a vast public market never corresponded to the facts, and is farther away from the facts now than it

was a hundred years ago. It finds many instances where industrial monopoly is almost inevitable; where the workman can deal with but one factory or the shipper with but one railroad; where the single factory or railroad can more than supply the local need for goods or for transportation, and the attempt to supply two railroads separately managed would mean ruinous duplication of capital. And in addition to these cases of inevitable monopoly where the conditions of the industry make it bad economy to have two independent concerns, we meet with instances of what may be called artificial monopoly; cases where factories or mines which have competed in the past have been brought together, not for the sake of superior economy in operation, but

in order to sell their products or pay their wages at a scale agreed upon by all of them in combination. The result which follows looks like an arbitrary system of price-fixing for the benefit of a class, instead of a competitive system for the benefit of the community; and the profits realized by some combinations have borne out this view. Particularly has this been the case at times when the purchasing power of money has varied greatly from year to year. When there has been a superabundance of money, which has a tendency to make prices go up, the advance in wages has been accompanied by a yet greater advance in the price of the product. When, on the other hand, the price has proved too high to maintain, there has been a stoppage of industry,

and the workmen are left unemployed just when the chance for high wages looked to them greatest. Under these circumstances economic antagonisms between the classes have arisen — part of them inevitable and part of them due to misunderstandings — which already constitute grave menaces to the commonwealth.

I shall show in the next lecture what is the relation between these economic misunderstandings and the political dangers by which we are surrounded; dangers which threaten the very continuance of the old-fashioned ideas of American liberty.

III

THE USES AND DANGERS OF REPRESENTATIVE GOVERNMENT

We saw in the last lecture how the development of the institution of private property, and the use of that property as capital, served until recent times as an education for liberty as well as a basis of national prosperity and progress. This state of things continued as long as competition operated promptly and smoothly. When combination of capital took the place of competition, the case was altered. A combination was often in a position to fix prices of products or rates of wages in an arbitrary manner. Out of the abuse of this power there grew up among large sections of the public a jealousy of capital

in general. The consumers thought the capitalists charged them too high prices; the laborers thought the capitalists paid them too low wages. The old satisfaction with the free working of economic laws gave place to widespread discontent.

During the whole of the nineteenth century both consumers and laborers have tried to arrange combinations of their own to meet combined capital on equal terms. Consumers organized coöperative stores; laborers organized trades unions. But efforts of this kind did not seem to go to the root of the difficulty. The inequality of possessions and of opportunities, between those who had capital and those who had not, appeared to grow greater as years went on. Under these circum-

stances both consumers and laborers looked for relief to those bodies under whose protection organized capital had itself grown up — the legislative assemblies or parliaments.

The origin and development of these assemblies is worth studying. In the beginning a parliament was what its name implies, a place for parleying — for talking things over. In the days when Europe was working out of the feudal system and organizing itself into nations, the kings did not feel sufficiently powerful to stand alone when it came to matters like declaring war or levying new taxes. Even though the king was stronger than any of his barons individually, he was not strong enough to act without consulting them collectively. Into these consultations

representatives of the church, of the landholding classes, and of the free towns were also summoned. Such were parliaments in their inception; and at a time when there was no telegraph, when newspapers were unknown, and when postal service was fragmentary and uncertain, the importance of an assembly like this for keeping the nation together politically was very great. It was a place where national public opinion could develop itself. Leading gentlemen from different parts of the country and leading merchants from different cities came together and told one another what their respective communities were thinking and saying; and when they went home they reported to their friends what they had learned in the conferences at London or

Paris or Toledo. Through such agencies a national public sentiment was formed, which strengthened the king's hands if it approved his policies, but which was dangerous for him to defy if it ran against him. With these early parliaments legislation was a secondary concern. The problem of working out the legal relations between man and man was generally left to the courts — civil or ecclesiastical. The most important function of these parliaments was the same as that of the American orators of 1840 or the American newspapers of 1860 — to get people to think straight about public affairs. And their next most important function was to investigate the conduct of the king's ministers and resist arbitrary acts of taxation or oppression.

Now, these last-named powers — the power to resist taxation and the power to investigate the conduct of ministers — were precisely the things to which the kings most objected. To say that the sovereign found his parliaments irksome is to put the matter very mildly indeed. They were so irksome that whenever the king felt strong enough he tried to get rid of parliaments altogether, either by not calling them or by reducing their powers to a minimum. This policy was successful in France, where the nobles were more concerned with personal politics of their own than with any national scheme of development; and it was also carried through in Spain, though with considerably greater difficulty than in France. But in England it failed, after a long struggle,

which began with Henry the Seventh in the closing days of the fifteenth century and ended with James the Second two hundred years later. The outcome of these two centuries of conflict was that the king of England had to call parliaments whether he wanted to or not; that the consent of such parliaments was necessary to the levying of taxes; and that the acts of the king's ministers were subject to investigation, and in some instances to punishment, by the parliaments thus called.

In fact, much more was accomplished. In consequence of its victory Parliament became a dominant factor in the government of England. Instead of spending its time trying to curb the arbitrary acts of the monarch, it now aspired to make the laws and direct the

policies of a nation. Instead of being a means of avoiding autocracy, it had become an agency that threatened under certain circumstances itself to become autocratic.

Nor was the influence of this victory confined to England. The English Parliament furnished a model which popular governments all over the world undertook to imitate. The experience of England showed how the people of a large country, through their representatives, could exercise the same influence upon national politics and national administration that the citizens of a town can exercise in local affairs by attending their town meeting. When the American people sought to defend their liberties against the English king, or when the French people

sought to defend their liberties against their own king, the mode of doing it had been shown them. The popular revolutions of the eighteenth and the nineteenth centuries, whether wholly successful or not, had a far more permanent effect than had the revolutions of any earlier period, because their parliaments or conventions left a record of what the people demanded.

All through the period when parliaments were fighting for their existence — from the thirteenth century till the end of the seventeenth — they had been leaders in the movement for liberty and in the movement for equality. The two things generally went hand in hand. Parliaments were contending against a political system inherited from feudal times, in which privilege was

entrenched and freedom discouraged. Each incident in the overthrow of that system — the abolition of serfdom, the breaking down of class lines, the removal of civil disabilities of every kind — meant greater freedom for each man individually and greater equality between different ranks in the community. And thus it happened that parliaments during all this period were fighting for the liberties both of the property-owners and of the people. In resisting the arbitrary taxation of capital, they were directly or indirectly resisting arbitrary conscription of labor power. In holding up the acts of the king's agents to publicity, they were protecting persons from arbitrary arrest as well as property from arbitrary confiscation. By contrast with the king,

the parliaments stood for an industrial civilization as against a military one; in fact, their success in the fight against the king was largely due to the fact that industrialism was stronger under modern conditions than militarism. And this meant progress. Whatever may be said by socialists of the slavery of the wage-earner under modern industrial methods, the so-called wage slave has in fact a far greater amount of freedom than the private in the ranks of an army or a serf on land which the army has conquered.

But when the fight for parliamentary government was actually won — when parliaments had secured the initiative in matters of legislation, and when society had organized itself on the modern economic basis — a different

set of conditions had arisen. The modern industrial system had created new inequalities which, though not so permanent as those of the feudal order, were almost equally galling. The differences between rich and poor were as conspicuous in the nineteenth century as they had been in the twelfth or the thirteenth; in some respects even more so, because the enormously increased mass of total wealth and the greater variety of purposes for which such wealth can be used makes the difference between the man who has nothing and the man who has everything even wider than it was in the old days. In ancient Greece or in mediæval England, where everybody was uncomfortable most of the time, the contrasts between rich and poor were less glaring than they are

in a more complex civilization. Industrial liberty had not produced industrial equality; it had in many places made the difference between rich and poor more conspicuous than it had been in previous ages.

Now, it so happened that this increase of industrial wealth, and this concentration of power in the hands of industrial leaders, came just at a time when legislative assemblies in every part of the world were becoming more democratic — when the popular element was getting stronger. The Congress or Parliament of to-day is a very different thing from the Congress or Parliament of 1789. Few of us know how strongly aristocratic were our first American legislative assemblies in their character and their membership. At

the time of the adoption of our Constitution there was hardly any State which had universal suffrage. Property qualifications were required for voting; still higher property qualifications were required for holding office. More than a generation passed before the United States Government became democratic in practice as well as in theory; and the influence of the old aristocratic traditions upon the habits and usages of Congress lasted for at least a generation longer. Nor was this condition confined to the United States. The same thing was true of England or Switzerland at the same dates. The House of Commons did not begin to be a representative assembly of the English people until 1835; and it did not become completely so for half a century more. It is

only within recent years that great nations have been governed by democratic congresses or parliaments for any considerable length of time.

Now if industrial liberty produces industrial inequality, it is almost certain that a democratic parliament or congress, elected by universal suffrage, will be tempted to restrict that liberty by an autocratic exercise of its own power.

It was long assumed that if partially representative bodies like the English Parliament had been partially successful in conserving public liberties, wholly representative bodies would make them wholly secure. Instead of this, the legislatures of the present day have tended to become more and more autocratic; to regard themselves, not as

agencies for forming public sentiment, but as inspired exponents of public will. A new conception of legislation has arisen. The Congress or Parliament of to-day does not attempt to form a united public opinion first and to express portions of that public opinion in the form of law afterwards. It regards itself as *making the laws*, and as having the power to make such laws as it pleases. The great majority of its members tacitly assume the right to do almost anything which they believe will promote their own continuance in office at the next election, by meeting demands of influential people in their own districts, whether they are for the good of the nation or not. And what makes this kind of legislation doubly dangerous is that most of these men are

acting in good faith. They really believe that Acts of Congress prepared in this fashion have public support and have been duly authorized by the American people, just as candidly and just as blindly as Robespierre or Lenine believed that the acts of their committees were authorized by the French people or the Russian people.

But the question will be asked right here: Are not our Congressmen in fact thus authorized? Does not their election show that they voice the will of the people in the laws they make? As judges of high standing, both State and Federal, have given countenance to this view, it is important to make it clear that it is not true except with regard to a very small part of the laws which any modern representative body

passes. Where political parties are divided on the basis of important issues in which the people are profoundly interested, Congressional action on these matters will reflect the will of the people to a considerable degree. An Act of Congress passed under such circumstances may be presumed to have the approval of the people in most of our Congressional districts. But outside of this narrow sphere of dominant party issues the contact between Congress and the public opinion of the country is remarkably small. With the possible exception of New York, there is no place where false ideas about the wishes of the country are so prevalent as at Washington, and no place in Washington where men go more hopelessly astray about it than in the

United States Senate. The forces that are brought strongly home to members of Congress — and the same thing is largely true of the members of the English Parliament — are not those of public opinion throughout the nation, but of organized minorities representing special classes or particular sections.

Until recently, these forces operated in the lobby of Congress rather than on the floor. To-day their influence is not merely exercised behind the scenes, but avowed in public. Many Congressmen make no secret of the fact that they serve two masters — the party organization to which they yield a nominal allegiance, and the particular economic group or block with whose advancement they are really concerned — whether it be a tariff block, a farmers'

block, or a labor block. They prefer to vote with their party if they can; but when it comes to a conflict of allegiance, between party and block, they vote with the block. They are never so happy as when they can compel the dominant party to do things which the majority of its members does not want, by the threat of bolting at a critical moment. The capitalists started this way of doing things; the anti-capitalists are now using it.

Under such a system the general interests of the community are easily lost sight of. Collective bargaining in politics, when it takes this form, is even more unsatisfactory than collective bargaining in industry. A compromise between different sectional groups by which a majority can be secured to give

those groups all they want never works out for the interests of the whole nation. It makes law the result of a scramble rather than an expression of public opinion. It brings the legislature itself into disrepute. Even those who get what they want are not proud of the way in which it was obtained; and those who do not get what they want feel warranted in nullifying the laws that have been passed by any means of evasion which stops short of actual crime. As a result, the administration becomes demoralized as well as the legislature, and the whole government suffers in public esteem.

The best proof of this public dissatisfaction with the work of our legislatures is seen in the attempts to restrict their activity. In most of our States the

tendency is to have less frequent meetings of such bodies, and to limit their powers more and more by State constitutions. A form of limitation which is specially prevalent and specially useful is the *referendum*. Progressive democracies on both sides of the Atlantic have recognized that it is a protection to the common interest to give the people a chance to express themselves on laws involving important changes before they are allowed to go into effect, and not to let a legislature try to *make* a law when the public sentiment against it is stronger than that in its favor. But no such means of limiting the powers of Congress is at hand. Our country is too large and the subjects of national legislation too complicated to make it easy to refer these matters to

public vote; and even if it were easier than it is, the chance of getting the system adopted is very small indeed. For any such reform would have to originate in Congress, and that body has been more anxious to increase its own powers than to diminish them.

By the provisions of the Federal Constitution, as originally adopted, an attempt was made to limit the law-making powers of Congress to specific matters of national concern, and to safeguard certain rights of persons and property against Congressional action. But these safeguards have been progressively weakened; partly as a result of economic changes which have made national action necessary in some matters which formerly were purely local, partly through amendments to the

Constitution which have widened the authority of Congress over the franchise, taxation, and personal liberty. It is curious how completely the United States Constitution has taken the control of constitutional amendment out of the hands of the people and delegated it to representative assemblies. Two Congresses pass an amendment by a certain majority, and the President is not allowed his usual opportunity of veto. It goes to the legislatures of the several States for their approval, and the members of those bodies have unlimited power to approve if they wish. They may not pass important laws for their own States without the assent of the majority of the people who have elected them; but they may alter the Constitution, which is the fundamental

law of the whole nation, by their own uncontrolled act, and no one can tell whether their vote represents the voice of the majority or not.

We cannot hope for much help from the courts to protect us against the growing power and activity of Congress. In the old days, when people were jealous of restrictions on their personal liberty, a judge of exceptional courage like John Marshall could tell Congress what kinds of things it should or should not do. But times have changed since Marshall's day. The courts have ceased to regard themselves as independent exponents of public opinion, and are content with the rôle of interpreters of Acts of Congress under conditions defined by the Federal Constitution. Nor can we

fairly criticize them for doing so. The main duty of the courts is to administer justice between man and man, and to interpret equitably, with due regard to tradition, the nineteen-twentieths of the law which is not made the subject of political controversy. It is, perhaps, quite as well that the courts of to-day should not jeopardize this power by an attempt to run athwart the expressed wishes of Congress. Let those who believe in liberty and oppose standardization fight their battle for themselves, through the press and at the polls, in the face of unhelpful or unsympathetic courts — as our grandfathers fought the battle against slavery.

"The only man that merits life or freedom
Is he who daily wins it for himself."

Our present practice of selecting a

group of men to make laws on every conceivable subject without appeal to the people or serious constitutional restriction has already involved us in two great evils and is threatening to bring others of equal seriousness in their train. As first and most obvious among these evils, I count the power to paralyze the government of the country in matters of administration and finance which the present system gives to unscrupulous politicians who are willing to "hold up" the business of the nation until the claims of some particular group are satisfied. Whenever the strength of political parties is so evenly balanced that the leaders are not quite sure of a majority, the opportunities of levying this sort of blackmail upon the public are very great;

and the resulting harm is matter of such common notoriety that I shall not dwell further upon this unsavory subject.

The second evil under which we suffer is a sense of financial insecurity; a well-grounded apprehension that success in business or in investment depends more upon what Congress may do than upon what any of us can do or foresee for himself. Among the many laws that have been passed to control the combinations of capital since the beginning of the present century, there is hardly a single one which has been based on a thorough study of what the evils really were and how they were to be prevented. Our railroad legislation, from 1906 onward, has been a series of makeshifts intended to satisfy some im-

mediate political demand, under which men who should have been protected were penalized and *vice versa*. It would be easy for any of us, from our own experience, to find instances of other lines of legislative control which have been mishandled in the same way. As I showed in the last lecture, it is inevitable that capitalists, under conditions as they exist to-day, will be subjected to certain restraints which were not imposed in previous generations; but this very fact makes it all the more important that such restraints shall be intelligent restraints; that the legislature shall have made clear to itself the character and source of the evil before legislating against it; and that penalties shall be directed against the man who is responsible for that evil, present or

prospective, instead of the man who has been trying the best he could to prevent it.

Besides this paralysis of government, and these dangers that threaten the accumulation and wise use of capital, there are other evils that are coming into prominence. We are not yet far enough removed from barbarous times to be free of the desire for forced conformity and forced equalization where other people's ways of doing things are different from ours. It is not simply industrial liberty which is threatened by our present political developments, but civil and personal liberty of almost every form. We are already restricted, by national law, in taking care of our own health without the advice of a physician; we are in a fair way to be re-

stricted in taking care of our own diet without the advice of Congress. An attack upon liberty of teaching and a movement for socialization of public instruction has already begun; and though momentarily checked by a decision of the Federal court in one State, it is likely to be renewed there and elsewhere in the immediate future. And behind all this we see preparations for an attack on liberty of thought itself.

Every people in every age has had in it two parties — one which thought much of the creeds of its members and comparatively little of the results of what they did; the other, which looked at results and regarded creeds or forms as merely a means to an end. The general tendency in America through the nineteenth century was to favor

the latter view, to encourage tolerance of differences, to unite unselfish and public-spirited men together when they were working in a common direction instead of trying to segregate them under different labels. In recent years there has been a distinct setback in this movement for tolerance and coöperation, and a revival of what is called *Fundamentalism*. The motives of many of the Fundamentalists are thoroughly good. They honestly believe that adherence to certain theological views is a matter of more importance than has been appreciated in recent years. I do not object to their thinking so. But I do object greatly to their calling themselves Fundamentalists, because it seems to me that they are emphasizing the things which the Founder of the

Christian religion declared to be secondary — observances, ritual, or formal compliance with tradition — as compared with the thing which he counted as central in his teaching, love to God manifested by intelligent concern for the happiness of your fellow men. It was he who gave us the parable of the Good Samaritan. It was he who taught us to pull a sheep out of a pit on Sunday, when the conservatives of his day would have left him to die. It was his great disciple Paul who assumed as his fundamental position that we had escaped from the bondage of the law into the glorious liberty of the Gospel. The true Fundamentalist from the Christian standpoint is the man who believes in giving people as much liberty as possible, and encouraging them

to think for themselves instead of burdening them all with restrictions which may be helpful to some and unnecessary or harmful to others.

In the middle of the last century a party was formed whose watchword *was* human liberty. It was organized at a time when the advocates of negro slavery were extending their claims, when the dominant party was generally favorable to such extension, and when the courts were ready to uphold the constitutionality of Acts like the Fugitive Slave Law. Few men in 1850 thought that human liberty was going to be an issue which would carry the country and defeat the politicians who sought to oppose it. But what seemed a far-away dream in 1850 had become a reality in 1860.

The same sort of issue presents itself at the present day in a different form. It is not the entire liberty of a fraction of the inhabitants of our country which is at stake; it is a considerable portion of the liberty of all the inhabitants. If we can organize a party on that issue, we shall have something in national politics worth working for and living for. We shall probably be beaten in the initial fighting; but if we have made the issue of constitutional liberty a party watchword, we shall at least know where we stand — know how far acts to the detriment of liberty are approved or disapproved by the people themselves. We can put this question squarely before the voters: Shall we go back to our old constitutional principle of giving each man as

far as possible a free hand to make progress in his own way, or shall we let our legislation be shaped by those who regard standardization as something of more value than individual development? If we can unite all the different classes of people whose liberties are threatened by the present order, there can be no doubt what will be the ultimate answer to this question.

But, to unite the different groups, each group must pursue its ends unselfishly. When the discussion of the slavery question was complicated by the conflict of selfish interests connected with the tariff, it made no progress. The rich man who asks liberty to manage his industrial enterprises with little or no interference, and fails to see what measure of legislative protection is

needed to give the poor man any real liberty to develop his powers, will have no place in the new party. The reformer who believes in freedom in general, but has a pet hobby — political, moral, or physiological — on which he must have legislation, will be a very doubtful auxiliary in the cause of freedom.

It will be a party that wants to look at things clearly, a party which is quite as solicitous to pull out motes and beams from its own eye as from its brother's. The liberty for which we should stand is the power to use our intellect in determining our conduct. To make even a pretense of doing this, we must free our reasonings from selfishness and our vision from blindness. The man who suffers unduly from

either of these defects is by that very fact deprived of liberty more completely and permanently than he could be by any Act of Congress.

To obtain the full value of this liberty, we need yet another quality besides unprejudiced judgment and clearness of intellectual vision. We need to be trained in habits of self-reliance. Without this the self-governing community lacks its motive power. Let us stand for a system of education which expects more work of the pupil than we do to-day, and less of the teacher. Let us stand for an idea of self-government, in our schools and in after life, which is not passive, but active; which does not stop with the negative habit of abstaining from acts that hurt others, but adds the positive virtue of doing things that

help others, and doing them on our own initiative. Let us put aside the temptation to take our knowledge and opinions at second hand, and learn to judge for ourselves the value of evidence, to study causes and effects, to do hard things which we do not like for the sake of a remote reward.

The reward of the champion of liberty in politics or in morals has often been very remote. But no political cause that promised to lead to large public ends ever wanted adherents because its triumph was distant or because the personal reward seemed doubtful. I for one believe that the men who know how to take the lead in the formation of a party for constitutional liberty to-day and have the patience to pursue their work through

the intervening hours of discouragement will be the ones who to-morrow will find themselves chosen to shape the destinies of the nation.

THE END

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